

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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(240) 777-6600

Case No. S-2749

PETITION OF VINCENT LUFSEY

OPINION OF THE BOARD

(Opinion Adopted May 5, 2010)

(Effective Date of Opinion May 21, 2010)

Case No. S-2749 is an application for a special exception, pursuant to Section 59-G-2.54.3 of the Zoning Ordinance to allow an Outdoor Storage Facility 850 portable toilets and 12 mobile restroom trailers. The Hearing Examiner for Montgomery County held a hearing on the application on February 12, 2010, closed the record on March 22, 2010, and on April 16, 2010 issued a Report and Recommendation for approval of the special exception.

The subject property is located on 8.2 acres of land at 23320 and 23330 Ridge Road, Germantown, Maryland in the Rural Cluster Zone.

Decision of the Board: Special Exception **Granted** Subject to
the Conditions Enumerated Below.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on May 5, 2010. After careful consideration and review of the record, the Board adopts the Report and Recommendation and grants the special exception with one change: the Board finds that Condition 9 proposed by the Hearing Examiner is unnecessary. Therefore, on a motion by Carolyn J. Shawaker, seconded by Stanley B. Boyd, with Walter S. Booth, and David K. Perdue, Vice-Chair in agreement and Catherine G. Titus, Chair, necessarily absent:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that Case No. S-2749, Petition of Vincent Lufsey is granted subject to the following conditions:

1. The Petitioner shall be bound by all of his testimony and exhibits of record, and by the testimony of his witnesses and representations of counsel identified in the Hearing Examiner's report and the Opinion of the Board.
2. The number of employees on site is limited to the following:
The Holder of the Special Exception, Vincent Lufsey;
Three Office Employees, two part-time and one full-time;
Three Shop Employees;
Three Delivery Drivers; and
Ten Route Drivers.

3. The following hours of operation are permitted:

Office employees: 8 a.m. – 4 p.m., Monday through Friday
Shop employees: 7 a.m. – 3:30 p.m., Monday through Friday
Delivery Drivers: In: 4 a.m.-6 a.m. Out: 7 a.m. Return: generally by 4 p.m., but allowed up to 6 p.m., Monday through Friday. A delivery may be made outside these hours only in an emergency.
Route Drivers: In: 4 a.m.-6 a.m. Out: 7 a.m. Return: generally by 4 p.m., but allowed up to 6 p.m., Monday through Friday.

From April through October, operations will be permitted on weekends, and the above hours of operations will apply to both Saturday and Sunday, except that rented portable toilets may be returned on Sunday, up until 9:00 p.m.

4. The following equipment may be stored on site:
850 standard, individual, empty porta-toilets;
12 empty mobile restroom trailers;
1 skid loader; and
6 flatbed trailers.
5. The following vehicles may be kept on site:
2 pickup trucks (not to exceed 5 ½ ton); and
12 pump trucks (5 ½ ton cabin with tank mounted on it).
6. The two (2) existing driveways must be widened to a minimum of twelve (12) feet each.
7. All porta-toilets and mobile restroom trailers must be emptied off-site, and there must be no storage or treatment of effluent on site.
8. Petitioner's site plan does not call for any signs, and therefore no signs may be posted on the property.

9. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

David K. Perdue
Vice-Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 21st day of May, 2010.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.

